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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,410	06/25/2003	Bart Munro	2043.097US1	5665
49845 7590 01/25/2010 SCHWEGMAN, LUNDBERG & WOESSNER/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402				
EXAMINER THERIAULT, STEVEN B				
ART UNIT		PAPER NUMBER		
2179				
NOTIFICATION DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM
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Office Action Summary

Application No.

10/606,410

Applicant(s)

MUNRO ET AL.

Examiner

STEVEN B. THERIAULT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

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DETAILED ACTION

1. This action is responsive to the following communications: RCE filed 11/02/2009.
2. Claims 33-54 are pending and new in the case. Claims 1-32 are the cancelled claims and all previously pending and rejected claims have been cancelled.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/02/2009 has been entered.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 33-54 are rejected under 35 U.S.C. 102(b) as being anticipated Fishkin et al. U.S Patent No. 5,841,437 issued Nov. 24, 1998.**

In regard to **Independent claim 33**, Fishkin teaches a computer-implemented method comprising:

- Presenting a first search interface to a user, the first search interface including first and second search criteria and indicating the first and second search criteria as available for inclusion in a first search query to be submitted by the user (See column 5, lines 1-26,

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column 16, lines 49-67 and column 17, lines 5-51). Fishkin shows a display with U.S. census data and boxes that are graphically depicted as longitudinal and latitude figures representing the United States. The user enters criteria to see the 1991 crime index and the user can select the Boolean operators to enter a number of search entries.

- Receiving a first selection from the user via the first search interface, the first selection indicating the first search criteria as selected for inclusion in the first search query and indicating the second search criteria as deselected for inclusion in the first search query, the receiving of the first selection being performed by a query build module implemented using a processor of a computer (See column 17, lines 5-67). Fishkin shows the user can deselect or use the NOT function to eliminate the second attribute.
- Determining first search results using the first search query (See figure 5, column 18, and lines 33-60). Fishkin shows the display, figure 5 with the census data and selected attributes
- Presenting a second search interface to the user, the second search interface including the first search results and indicating the first search criteria as included in the first search query and the second search criteria as excluded from the first search query (See column 5, lines 30-35, NOT operation, column 16, lines 1-5, and column 19, lines 1-42 and column 20, lines 55-67). Fishkin shows multiple VOR layers placed over the dataset with the first and second criteria being used or changed by the user.

With respect to **dependent claim 34**, Fishkin teaches the computer-implemented method of receiving a second selection from the user, the second selection indicating the first and second search criteria as selected for inclusion in a second search query determining second search results using the second search query (See Fishkin Figure 6a and 6b and 25 and column 19,

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lines 1-42). Fishkin also teaches presenting a third search interface to the user, the third search interface including the second search results and indicating the first and second search criteria as included in the second search query (See column 14, lines 20-67 and column 19, lines 1-67 and column 4, table 1, bottom multiple VOR can be shown.

With respect to **dependent claim 35**, Fishkin teaches the computer-implemented method wherein:

the second search criteria includes an attribute and an attribute value (See Figure 6b, annual pay); the method further comprising:

refreshing the second search interface to present at least one of the attribute or the attribute value as visually distinguished to indicate the second search criteria as included in the second search query (See Figure 6b as the blocks are visually enhanced to show user selections or changes (See also Figure 7 and Figure 8 and column 10, lines 1-15)..

With respect to **dependent claim 36**, Fishkin teaches the computer-implemented method further comprising:

monitoring the first search interface to detect an activation of an attribute link

corresponding to at least one of the attribute or the attribute value (See column 19, lines 20-45 and Figure 7, shows a list of objects displayed based on the attribute in the interface).

With respect to **dependent claim 37**, Fishkin teaches the computer-implemented method wherein:

the attribute value comprises at least one of a category, a type, a size, a brand, a minimum price, a maximum price, or price range (See Figures 6b -8) (Fishkin shows a category of information).

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With respect to **dependent claim 38**, Fishkin teaches the computer-implemented method wherein: the first search interface includes a checkbox to indicate that the second search criteria as excluded from the first search query(See column 5, lines 30-35, NOT operation, column 16, lines 1-5, and column 19, lines 1-42 and column 20, lines 55-67)..

With respect to **dependent claim 39**, Fishkin teaches the computer-implemented method wherein: the first search criteria includes a keyword (See column 15, lines 35-67 and column 16, lines 1-16).

With respect to **dependent claim 40**, Fishkin teaches the computer-implemented method wherein: the second search criteria includes at least one of a category, a title, or a description (See column 18, lines 1-67).

With respect to **dependent claim 41**, Fishkin teaches the computer-implemented method further comprising: generating at least one of the first or second search interfaces (See Figure 6a-6b and 8).

With respect to **dependent claim 42**, Fishkin teaches the computer-implemented method, wherein: the search results are representative of listings stored in a database of products available for at least one of an auction or a sale (See column 19, lines 1-67 and column 20, lines 5-67).

With respect to claims **43-52**, **54** claims 43-52, 54 reflect the system comprising computer readable instructions for performing the steps in method claims 33-42, respectively and thus are rejected along the same rationale. Fishkin clearly teaches a medium and system for performing the functions (See figure 17, memory 860, processor 140 and display 180). The means shown in figure 17 of a display to present the first VOR and second VOR as shown in figure 6a and 6b and the processor to determine the shown user selections via the input device to change the displayed search results.

With respect to claim **53**, claim 53 reflects the medium computer readable instructions for

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performing the steps in method claim 1 and thus is rejected along the same rationale.

A reference to specific paragraphs, columns, pages, or figures in a cited prior art reference is not limited to preferred embodiments or any specific examples. It is well settled that a prior art reference, in its entirety, must be considered for all that it expressly teaches and fairly suggests to one having ordinary skill in the art. Stated differently, a prior art disclosure reading on a limitation of Applicant's claim cannot be ignored on the ground that other embodiments disclosed were instead cited. Therefore, the Examiner's citation to a specific portion of a single prior art reference is not intended to exclusively dictate, but rather, to demonstrate an exemplary disclosure commensurate with the specific limitations being addressed. *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). *In re: Upsher-Smith Labs. v. Pamlab, LLC*, 412 F.3d 1319, 1323, 75 USPQ2d 1213, 1215 (Fed. Cir. 2005); *In re Fritch*, 972 F.2d 1260, 1264, 23 USPQ2d 1780, 1782 (Fed. Cir. 1992); *Merck & Co. v. Biocraft Labs, Inc.*, 874 F.2d 804, 807, 10 USPQ2d 1843, 1846 (Fed. Cir. 1989); *In re Fracalossi*, 681 F.2d 792, 794 n.1, 215 USPQ 569, 570 n.1 (CCPA 1982); *In re Lamberti*, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976); *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969).

Response to Arguments

7. Applicant's arguments with respect to claims 33-54 have been considered moot in light of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN B. THERIAULT whose telephone number is (571)272-5867. The examiner can normally be reached on Mon.-Fri. 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilin Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven B Theriault/
Primary Examiner
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